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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,632	03/22/2006	Olav Lauvdal	P18653 USPC	8601

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EXAMINER	
FOX, CHARLES A	

ART UNIT	PAPER NUMBER
3652	

NOTIFICATION DATE	DELIVERY MODE
02/24/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/562,632	LAUVDAL, OLAV	
	Examiner	Art Unit	
	Charles A. Fox	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 February 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,8,9,11 and 12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,8,9,11 and 12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 May 2009* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 9, 2010 has been entered.

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). Claim 10 had previously been cancelled, but is still part of the record. In the future to be compliant claim 10 must be listed and identified as being cancelled. A new set of claims showing the numbering changes must be presented in response to this action.

Misnumbered claims 10 and 11 been renumbered 11 and 12 respectively.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 8,9,11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention. Regarding claim 1 the preamble of the claim is clearly directed to a lifting device, but in line 13 a fixed connection is claimed to the stationary part of the fork structure. As the implement carrier is not being claimed any structure pertaining to it must be cancelled from the claims. It is indefinite as to what the applicant is actually claiming a system or just the lifting device.

Claim 1 recites the limitation "the stationary part" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Also regarding claim 1 it is not clear what is meant by “telescoped”. Does this mean extended or retracted? Figure 2 shows the guide being used when the forks are extended, but figure 5 shows the guide being used when the forks are retracted. As such it is impossible to determine when the guide will work based upon the word “telescoped”. Further this terminology simply means two or more part where one slides inside of the other, which the forks must do at all times, otherwise they would part and the outer part would separate from the implement. Clarification is required.

Any claim not specifically mentioned under this section is rejected based solely upon its dependency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,8,9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kristensen in view of Smith and further in view of Miller et al. Regarding claims 1 and 11 Kristensen US 6,024,529 discloses a device for use with a forked lifting vehicle, the device comprising:

a pair of sleeve sections (21,21') making up a carrier mountable onto the forks (30,30') of said vehicle;

a holding part (8) attached to said sleeve sections, said holding part having at least two securing devices (2) for securing an object to said holding part;

a trigger device (20a-f) for operation of said securing devices. Kristensen does not teach the securing devices are permanent magnets with a releasing part actuated by a lanyard. Smith US 3,014,751 teaches a securing device for moving ferrous material comprising:

a planer face with permanent magnets (36,38) attached thereto;

a guide member (52) pivotally attached to said device such that when pivoted it will force the material being lifted out of the effective range of the magnets. Smith does not teach using a lanyard to actuate the release lever.

Miller et al. US 3,881,617 teaches an automatic actuator for a forklift system comprising:

a forklift with a mast;

a carriage for moving along said mast;

a set of forks and an associated holder mounted on said forks;

a lever on said holder for releasing material from the holder;

a fixed length line mounted at a first end to a stationary portion of the forklift and at a second end to said lever;

wherein movement of the carriage along said mast will cause the line to become taunt and thereby cause the lever to pivot thereby releasing the holder from a latch. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Kristensen with a magnetic holder as taught by Smith in order to move ferrous materials and to further provide a lever actuator as taught by Miller et al. in order to release the ferrous objects without an operator having to leave the forklift, thereby increasing the safety of the operator by removing them from the area where the material is being handled.

Regarding claim 8 Kristensen also teaches a support (26) removable mounted at the base of the holding part.

Regarding claim 9 Kristensen further teaches that holding part is rotatably attached to the carrier part thus enabling the holding part to be moved to a new position and fixed therein.

Claims 1,8,9,11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kristensen in view of Smith and further in view of Koehler. Regarding claims 1,11 and 12Kristensen US 6,024,529 discloses a device for use with a forked lifting vehicle, the device comprising:

a pair of sleeve sections (21,21') making up a carrier mountable onto the forks (30,30') of said vehicle;

a holding part (8) attached to said sleeve sections, said holding part having at least two securing devices (2) for securing an object to said holding part;

a trigger device (20a-f) for operation of said securing devices. Kristensen does not teach the securing devices are permanent magnets with a releasing part actuated by a lanyard. Smith US 3,014,751 teaches a securing device for moving ferrous material comprising:

a planer face with permanent magnets (36,38) attached thereto;

a guide member (52) pivotally attached to said device such that when pivoted it will force the material being lifted out of the effective range of the magnets. Smith does not teach using a lanyard to actuate the release lever.

Koehler US 2,713,431 teaches an automatic actuator for a forklift system comprising:

a forklift with a mast;

a carriage for moving along said mast;

a set of forks and an associated holder mounted on said forks;

a lever on said holder for releasing material from the holder;

a fixed length line mounted at a first end to a stationary portion of the forklift and at a second end to said lever;

wherein movement of the carriage along said mast will cause the line to become taunt and thereby cause the lever to pivot thereby releasing the holder from a latch;

a spring monted between the carrying device for the holder and the lever such that it is held in place when the carriage is at its lower position.. It would have been

obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Kristensen with a magnetic holder as taught by Smith in order to move ferrous materials and to further provide a lever actuator as taught by Koehler in order to release the ferrous objects without an operator having to leave the forklift, thereby increasing the safety of the operator by removing them from the area where the material is being handled.

Regarding claim 8 Kristensen also teaches a support (26) removable mounted at the base of the holding part.

Regarding claim 9 Kristensen further teaches that holding part is rotatably attached to the carrier part thus enabling the holding part to be moved to a new position and fixed therein.

Response to Amendment

The amendments to the claims filed on February 9, 2010 have been entered into the record.

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is listed on the attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Fox/
Primary Examiner, Art Unit 3652